

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MAEWEATHERS A. D. MARSHALL,
Petitioner,
v.
KEN CLARK, Acting Warden,¹
Respondent.

Case No. [18-cv-03246-YGR](#) (PR)

ORDER OF TRANSFER

Petitioner, a state prisoner, has filed a *pro se* petition for a writ of habeas corpus in which he challenges the execution of his sentence. He seeks leave to proceed *in forma pauperis* (“IFP”).

A petition for a writ of habeas corpus filed by a state prisoner in a State that contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. *See* 28 U.S.C. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. *See id.* Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. *See Dannenberg v. Ingle*, 831 F. Supp. 767, 767 (N.D. Cal. 1993); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968). But if a habeas petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credit claims, the district of confinement is the preferable forum. *See* Habeas L.R. 2254-3(a); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).

Petitioner is incarcerated at California State Prison - Corcoran, which lies within the venue of the Eastern District of California. *See* 28 U.S.C. § 84. Because Petitioner challenges the execution of his sentence, the Court hereby ORDERS that pursuant to 28 U.S.C. § 1404(a) and


¹ Ken Clark, the current acting warden of the prison where Petitioner is incarcerated, has been substituted as Respondent pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

Habeas L.R. 2254-3(b), and in the interests of justice, this petition be TRANSFERRED to the United States District Court for the Eastern District of California.

All remaining motions are TERMINATED on this Court's docket as no longer pending in this district.

IT IS SO ORDERED.

Dated: July 24, 2018


YVONNE GONZALEZ ROGERS
United States District Judge